

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee.

v.

No. 98-4903

MIGUEL RODRIGUEZ-GABINA, a/k/a
Manuel Martinez-Mejia,
Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of North Carolina, at Durham.
William L. Osteen, District Judge.
(CR-98-165)

Submitted: July 13, 1999

Decided: August 4, 1999

Before WIDENER, ERVIN, and TRAXLER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Louis C. Allen, III, Federal Public Defender, John A. Dusenbury, Jr.,
Assistant Federal Public Defender, Greensboro, North Carolina, for
Appellant. Walter C. Holton, Jr., United States Attorney, Arnold L.
Husser, Assistant United States Attorney, Greensboro, North Caro-
lina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

Miguel Rodriguez-Gabina pleaded guilty to reentering the United States after having been deported following a felony conviction, in violation of 8 U.S.C.A. § 1326(a), (b)(2) (West 1999). Rodriguez-Gabina's counsel has filed a brief in accordance with Anders v. California, 386 U.S. 738 (1967), raising one issue but stating that, in his view, there are no meritorious issues for appeal. Rodriguez-Gabina was informed of his right to file a supplemental brief, but he has not done so.

Rodriguez-Gabina's sentencing guideline range was calculated as forty-six to fifty-seven months' imprisonment, and the district court sentenced him to a term of fifty months' imprisonment. Counsel questions whether the district court committed reversible error in failing to impose a sentence at the low end of the applicable guideline range. However, because Rodriguez-Gabina does not contest that his sentence was imposed within the properly calculated guideline range, this Court has no jurisdiction to reconsider his sentence. See 18 U.S.C.A. § 3742 (West 1985 & Supp. 1999); United States v. Jones, 18 F.3d 1145, 1151 (4th Cir. 1994).

In accordance with Anders, we have examined the entire record in this case and find no meritorious issues for appeal. Accordingly, we affirm Rodriguez-Gabina's sentence. We further deny Rodriguez-Gabina's counsel's motion to withdraw, because this court requires that counsel inform his client, in writing, of his right to petition the Supreme Court of the United States for further review. If the client requests that a petition be filed, but counsel believes that such a petition would be frivolous, then counsel may renew his motion for leave to withdraw from representation. Counsel's motion must state that a copy thereof was served on the client. We dispense with oral argument because the facts and legal contentions are adequately presented

in the materials before the court, and oral argument would not aid the decisional process.

AFFIRMED